

Recording Requested by:

COUNTY OF LOS ANGELES

When Recorded Return to:

COUNTY OF LOS ANGELES

Office of County Counsel

648 Kenneth Hahn Hall of Administration

500 West Temple Street

Los Angeles, CA 90012

Attn: Amy Caves, Esq.

FREE RECORDING

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**MEMORANDUM OF AMENDED AND RESTATED LEASE AGREEMENT
PARCEL 8T — MARINA DEL REY**

This Memorandum of Amended and Restated Lease Agreement Parcel 8T — Marina Del Rey (“Memorandum”), is made and entered into as of _____, 2012 (“Effective Date”) by and between the COUNTY OF LOS ANGELES (“County”), as lessor, and ARCHSTONE MARINA BAY NOMINEE LP, a Delaware limited partnership (together with its permitted successors and assigns, “Lessee”), as lessee.

W I T N E S S E T H

WHEREAS, County, as lessor, and Vadim P. Kondratief dba V.P.K. Investment & Development Company (the “Original Lessee”), entered into Lease No. 4985, dated October 4, 1961 (as amended prior hereto, the “Existing Lease”), pursuant to which County leased to Original Lessee that certain real property in the Marina del Rey Small Craft Harbor now commonly known as Parcel No. 8T and which is more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the “Premises”), the term of which commenced on June 8, 1961 and was originally scheduled to expire on June 7, 2021 (the “Existing Expiration Date”); and

WHEREAS, Lessee is the current successor-in-interest to the Original Lessee’s right, title and interest as lessee under the Existing Lease; and

WHEREAS, County and NF Marina, LP, a California limited partnership (“NF Marina”), entered into that certain Option to Amend Lease Agreement (Parcel 8T) dated as of December 8, 2009, as renewed by Renewal of Option to Amend Lease Agreement dated October 18, 2011 (collectively, the “Option Agreement”), pursuant to which County granted Lessee an option (the “Option”) to amend and restate the Existing Lease in its entirety, upon the terms and conditions more specifically provided in that certain Amended and Restated Lease Agreement Parcel 8T — Marina del Rey (the “Amended Lease”) that has been executed concurrently with this

Memorandum, including, without limitation, (i) the extension of the term of the Existing Lease through June 7, 2051, and (ii) renovation of the land-side improvements on the Premises and the replacement of all anchorage improvements on the Premises, all in accordance with the terms and provisions set forth in the Amended Lease; and

WHEREAS, the rights, interests and obligations of NF Marina under the Existing Lease and the Option Agreement have been assigned to and assumed by Lessee, and Lessee has exercised the Option in accordance with the terms and provisions of the Option Agreement; and

WHEREAS, pursuant to the Option Agreement and the exercise of the Option, County and Lessee, as the current successor-in-interest to the lessee's right, title and interest under the Existing Lease, have entered into the Amended Lease to fully amend and restate the Existing Lease in its entirety;

WHEREAS, capitalized terms used herein and not defined shall have the meaning ascribed to such terms in the Amended Lease.

NOW, THEREFORE, in reliance on the foregoing and in consideration of the mutual covenants, agreements and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto and each of them do agree that the Existing Lease is amended and restated in accordance with the Amended Lease, as follows:

1. **Lease**. For and in consideration of the payment of rentals and the performance of all the covenants and conditions of the Amended Lease, County hereby leases to Lessee, and Lessee hereby leases and hires from County, an exclusive right to possess and use, as lessee, the Premises for the Term (as hereinafter defined) and upon the terms and conditions and subject to the requirements set forth in the Amended Lease.

2. **Term**. Unless terminated sooner in accordance with the provisions of the Amended Lease, the term of the Amended Lease shall be for the period commencing on June 8, 1961 and expiring at 11:59 p.m. on June 7, 2051 ("**Term**").

3. **Reservations**. Lessee expressly agrees that the Amended Lease and all rights thereunder shall be subject to the easements expressly reserved in favor of County in Exhibit A attached hereto and also subject to all prior encumbrances, reservations, licenses, easements and rights of way existing as of the Effective Date or otherwise referenced in the Amended Lease in, to, over or affecting the Premises for any purpose whatsoever, and also subject to any other encumbrances, reservations, licenses, easements and rights of way consented to by Lessee in writing.

Without limiting the foregoing, Lessee expressly agrees that the Amended Lease and all rights thereunder shall be subject to all prior matters of record or other matters disclosed to or known to Lessee, as of the Effective Date, which provide a right to install, construct, maintain, service and operate sanitary sewers, public roads and sidewalks, fire access roads, storm drains, drainage facilities, electric power lines, telephone lines and access and utility easements across, upon or under the Premises, together with the right of County to convey such easements and transfer such rights to others.

County and Lessee expressly acknowledge that the Premises is leased by County to Lessee subject to certain reservations by the County set forth in the legal description to the Premises attached to this Memorandum of Lease as Exhibit A.

4. **Tahiti Way**. County, in its governmental capacity and in its capacity as owner of Tahiti Way, a private and physically open street, agrees that Lessee, together with its Sublessees, assignees, contractors, employees, agents, permittees, and invitees shall have full access to and from Tahiti Way, which provides access to and from Villa Marina, a publicly dedicated and physically open street, during the entire Term of the Lease, subject to any and all rights of County regarding any repair, reconstruction, diversion and replacement of said roadway which it might lawfully undertake consistent with its obligation to Lessee under this Lease and Applicable Laws.

5. **Waterfront Promenade**. County hereby reserves a public easement for access over and use of the Promenade for fire lane uses, pedestrian purposes and such other related uses (including, if approved by County, bicycling, rollerblading and similar activities) as may be established by County from time to time, all in accordance with such rules and regulations as are promulgated from time to time by County regulating such public use. Lessee shall be responsible for the maintenance and repair of the Promenade in accordance with commercially reasonable maintenance and repair standards for the Promenade established by County from time to time on a nondiscriminatory basis. The exact legal description of the Premises encumbered by the public easement reserved herein shall be established based upon the final as-built drawings for the Promenade to be delivered by Lessee upon the completion thereof in accordance with the terms and provisions of Subsection 5.7.7 of this Lease. At the request of either party, such legal description shall be recorded in the Official Records of Los Angeles County as a supplement to the Amended Lease.

6. **Successors**. Subject to the provisions in the Amended Lease governing assignment, the rights and obligations created in the Amended Lease shall bind and inure to the benefit of the respective heirs, personal representatives, successors, grantees, and assigns of County and Lessee.

7. **Incorporation and Conflicts**. The purpose of this Memorandum is to provide notice of the Amended Lease. All of the terms and conditions of the Amended Lease are incorporated herein by reference as though set forth fully herein. In the event of any conflict between the terms hereof and of the Amended Lease, the Amended Lease shall prevail. This Memorandum is prepared for the purpose of recordation only and it in no way modifies the provisions of the Amended Lease. A true copy of the Amended Lease is on file in the offices of the County at Department of Beaches & Harbors, 13837 Fiji Way, Marina del Rey, California 90292. This Memorandum may be executed in counterparts, each of which shall be an original and all of which together shall constitute one fully-executed document.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Memorandum of Lease to be subscribed by the Mayor of Los Angeles County and attested by the Clerk thereof, and Lessee has executed the same the day and year first hereinabove written.

THE COUNTY OF LOS ANGELES

By: _____
County of Los Angeles

ARCHSTONE MARINA BAY NOMINEE LP, a
Delaware limited partnership

By: _____
Name: _____
Title: _____

ATTEST:

SACHI A. HAMAI,
Executive Officer of the
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

JOHN F. KRATTLI,
COUNTY COUNSEL

By: _____
Deputy

APPROVED AS TO FORM:

MUNGER, TOLLES & OLSON LLP

By: _____

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Parcels 63 to 91 inclusive, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Recorder of said County, and the easterly 24.81 feet of Parcel 92, in said County, as shown on said map.

Together with a right of way for access purposes to be used in common with others over the northerly 10 feet of the westerly 32 feet of the easterly 56.81 feet of said Parcel 92.

Reserving and excepting unto said County a right of way for sanitary sewer purposes in and across that portion of above described parcel of land which lies within the westerly 10 feet of the easterly 24.81 feet of said Parcel 92.

Also reserving and excepting unto the County of Los Angeles rights of way for sanitary sewer, storm drain, fire access and harbor utility purposes in and across those portions thereof designated on said map as easements to be reserved by said County for such purposes.